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OFFICE OF PETITIONS

In re Application of :
Baker, et al. :
Application No.: 10/817,058 : ON PETITION
Filing Date: April 2, 2004 :
Attorney Docket No. BA-32448(1) :

This is a decision on the petition under 37 CFR 1.47 filed July 10, 2006, which will be treated as a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.131.

The petition is **granted**.

The record reflects that both joint inventors named in subject application executed the declaration required by 37 CFR 1.63, and that the executed declaration was filed with the original application papers on April 2, 2004. Petitioner now files the instant petition under 37 CFR 1.47 because one of the joint inventors refuses to sign the declaration under 37 CFR 1.131. Petitioner requests that the declaration under 37 CFR 1.131 be accepted without the signature of inventor Shi because inventor Shi is refusing to sign the declaration.

It is noted that the provisions of 37 CFR 1.47 only apply to the execution of the original oath or declaration under 37 CFR 1.63. A petition under 37 CFR 1.47 is not appropriate in this case because inventor Shi executed the original declaration. Relief can be granted, pursuant to 37 CFR 1.183, by the waiver or suspension of the requirements of 37 CFR 1.131 as to inventor Shi.

Accordingly, the instant petition will be treated as petition under 37 CFR 1.183 to waive the requirement of 37 CFR 1.131 so as to accept the declaration filed July 10, 2006, without the signature of inventor Shi. The petition is granted; the requirement of 37 CFR 1.131 that all relevant inventors execute the declaration under 37 CFR 1.131 is waived as to inventor Shi.

The fee for the petition under 37 CFR 1.183 is \$400.00 as per 37 CFR 1.183 and 1.17(f). Deposit account 23-2053 will be charged \$400.00, accordingly.

The application file will be forwarded to Technology Center 1600, GAU 31656 for further processing.

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions